IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 666 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

---

SHAHZADAKHAN SHERINKHAN PATHAN

Versus

AMINABIBI WD/O KHANJADAKHAN SHERINKHAN PATHAN

---

Appearance:

MR MB GANDHI for Petitioner Nos. 1-4

MR BM GUPTA for Respondent Nos. 1-2

---

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/03/2004

ORAL JUDGEMENT

The petitioners are the original defendants of Regular Civil Suit No.2571 of 1995. The aforesaid suit is filed by the present respondents. In the aforesaid suit, an application was given by the defendants to raise certain issues as preliminary issues. The Court came to

the conclusion that the issues suggested by the other side, to be treated as preliminary issues, cannot be decided as preliminary issues, as, evidence is required to be led before deciding such issues. Considering the nature of the order, it is clear that it is purely at an interlocutory stage in the pending suit. In view of the amendment in Section 115 of the Code of Civil Procedure, revision against the impugned order is not maintainable. This Civil Revision Application is accordingly disposed of as not maintainable. Rule is discharged, with no order as to costs.

Hearing of the suit is expedited.

9th March, 2004 ( P.B. Majmudar, J. )

****

(apj)